IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WA.No. 1129 of 2007

AGAINST THE JUDGEMENT IN WPC.8701/2007 Dated 02/04/2007
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APPELLANT/PETITIONER:

M.B.SATHYAN,
MAVUNILKUNNATHIL,
ELANTHOOR EAST P.O., PATHANAMTHITTA.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS/RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR,
DIARY DEVELOPMENT DEPARTMENT,
GOVERNMENT OF KERALA, PATTOM,
THIRUVANANTHAPURAM.

3. THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE
MILK PRODUCERS UNION LTD.,
KSHEERA BHAVAN, PATTOM, THIRUVANANTHAPURAM,
REPRESENTED BY ITS MANAGING DIRECTOR.

4. L.RAJENDRAN,
PRESIDENT,
KAPPIKKADU KSHEEROLPADAKA SAHAKARAN SANGHAM,
KAPPIKKADU, POOVACHAL P.O., THIRUVANANTHAPURAM.

R1 & R2 BY SPECIAL GOVERNMENT PLEADER MR.C.T.RAVIKUMAR
R3 BY BY ADV. SRI.B.S.KRISHNAN (SR) & SRI.K.ANAND
SMT.LATHA KRISHNAN
R4 BY ADV.MR.SHAJI P.CHALY

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.1129 of 2007

Dated, this the 5th day of October, 2007

JUDGMENT

H.L.Dattu, C.J.

Though this matter is listed in the petition list, by consent of learned counsel appearing for the parties to the lis, the same is taken up for final hearing.

2. The appellant in this writ appeal calls in question the correctness or otherwise of the orders passed by the learned Single Judge in W.P.(C) No.8701 of 2007 dated 2nd April, 2007. By the impugned order the learned Single Judge has declined to entertain the writ petition, solely on the ground that the petitioner has an alternative remedy by way of appeal before the State Government against the orders passed by the second respondent under Section 83 of the Kerala Co-operative Societies Act, (for short 'the Act').

3. Admittedly, the second respondent in the writ petition has passed an order disqualifying the petitioner from holding a position in the managing committee of the third respondent society. The order passed by the second respondent is in exercise of his powers under Rule 44(3) of the Kerala Co-operative Societies Rules.

4. In our opinion, if for any reason the appellant is aggrieved by the aforesaid order passed by the second respondent, he has to file an appropriate appeal as provided under Section 83 of the Act. The appellate remedy so provided under the aforesaid provision is not only an effective remedy but also an efficacious remedy. Bypassing that remedy the appellant could not have approached this Court. Keeping all these aspects of the matter in view, in our

view, the learned Judge has rightly rejected the writ petition. We do not see any error in the order passed by the learned Single Judge which would call for our interference. Therefore the writ appeal requires to be rejected and it is rejected.

5. However, liberty is reserved to the appellant to file an appeal against Ext.P8 order passed by the second respondent within fifteen days' time from today. If such an appeal is filed within the time granted by this Court, the appellate authority shall decide the appeal on merits without reference to the period of limitation. All the contentions of both the learned counsel are left open.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns